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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,370	02/05/2002	Cathleen Woodall	2858	4346

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EXAMINER

HO, THOMAS Y

ART UNIT PAPER NUMBER

3677

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,370

Applicant(s)

WOODALL ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “web 96” must be shown or the feature(s) canceled from the claim(s); the reference numeral “96” in figure 6 points to empty space. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 4-5, 7-8, and 13-15 are objected to because of the following informalities:

- As to claim 1, change “the” (ln.11) to --be--.
- As to claim 4, change “aftarm” to --aftarms--.
- As to claim 5, change “perimeters” (ln.30) to --perimeter--; also change “been” (ln.31) to --being--.
- As to claim 7, change “co-plan” to --coplanar--.
- As to claim 8, change “minor” to --mirror--.
- As to claim 13, change “perimeters” (ln.9) to --perimeter--.
- As to claim 14, change “perimeter” (ln.10) to --perimeters--.
- As to claim 15, change “pad” (ln.17) to --pads--.

Appropriate correction is required.

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Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "coplanar" in claims 1, 8, and 15 are used by the claim to mean "in a folded condition," while the accepted meaning is "lying in the same plane." The pads are not "coplanar" when the cushion is folded, they are defined by parallel planes.

Claims 2-7, 9-14, and 16-23 depend from claims 1, 8, and 15 and are likewise rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 8-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lerman USPN3323151.

As to claim 1, Lerman discloses:

- A pair of generally flat pads 8/9 for supporting a user's buttocks.
- A handle 16/21/22 disposed between the pads for carrying said seat cushion.

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- Arms 16, interconnecting the pads and said handle for holding the pads in a spaced apart relationship and enabling grasping of said handle by the user.
- Said arms being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a coplanar relationship for enabling transport of said seat cushion by the handle.

As to claim 2, Lerman discloses:

- Said handle 16/21/22 and said arms 16 are recessed from a top of each of the pads 8/9 for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx. It is noted that the limitation "for...coccyx" is intended use.

As to claim 3, Lerman discloses:

- The pads 8/9, arms 16, and handle 16/21/22 are integrally molded (col.3, ln.4-21).

As to claim 4, Lerman discloses:

- Said arms include forearms and aftarms each joined to opposite ends of said handle 16/21/22.

As to claim 5, Lerman discloses:

- Each of the pads 8/9 include an arcuate forward perimeter.
- The forward perimeters being joined by the forearms.

As to claim 6, Lerman discloses:

- Each of the pads 8/9 include an arcuate rearward perimeter.
- The rearward perimeter being joined by the aftarms.

As to claim 8, Lerman discloses:

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- A pair of generally flat pads 8/9 for supporting a user's buttocks. It should be noted that "for...buttocks" is intended use.
- The pads having mirror image perimeters.
- A handle 16/21/22 disposed between the pads for carrying said seat cushion.
- Arms 16, interconnecting the pads and said handle, for holding the pads in a spaced apart relationship and enabling grasping of said handle by the user.
- The arms being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a coplanar relationship for enabling transport of said seat cushion by the handle.

As to claim 9, Lerman discloses:

- Said handle 16/21/22 and arms 16 have a thickness smaller than a thickness of the pads 8/9 and are disposed between the pads 8/9 for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx. It should be noted that "for...coccyx" is intended use.

As to claim 10, Lerman discloses:

- The handle arms 16 and pads 8/9 each have a bottom surface disposed in a single plane with the pads 8/9 oriented for supporting the user's buttocks.

As to claim 11, Lerman discloses:

- The pads 8/9, arms 16, and handle 16/21/22 are integrally molded (col.3, ln.4-21).

As to claim 12, Lerman discloses:

- Said arms 16 include forearms and aftarms each joined to opposite ends of said handle 16/21/22.

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As to claim 13, Lerman discloses:

- Each of the pads 8/9 include an arcuate forward perimeter.
- The forward perimeters being joined by the forearms.

As to claim 14, Lerman discloses:

- Each of the pads 8/9 include an arcuate rearward perimeter.
- The rearward perimeters being joined by the aftarms.

As to claim 15, Lerman discloses:

- A pair of generally flat pads 8/9 for supporting a user's buttocks. It should be noted that "for...buttocks" is intended use.
- A web 16, interconnecting the pads, for holding the pads in a spaced apart relationship.
- Said web being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a coplanar relationship for enabling transport of said seat cushion.
- A handle 16/21/22 attached to said web 16 for carrying the pads in the coplanar relationship.

As to claim 16, Lerman discloses:

- Said web 16 and handle 16/21/22 are recessed from a top of each of the pads 8/9 for enabling the user's coccyx to depend between the pads 8/9 in order to prevent pressure on the coccyx. It should be noted that "for...coccyx" is intended use.

As to claim 17, Lerman discloses:

- The pads 8/9, web 16, and handle 16/21/22 are integrally molded (col.3, ln.4-21).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 18-21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerman USPN3323151 in view of Skibik USPN5611098.

As to claim 7, Lerman fails to disclose or suggest:

- A means for releasably holding the pads in the coplanar relationship.

Skibik discloses a means 26 for releasably holding the pads in the coplanar relationship (col.4, ln.1-9) to secure the cover members together in closed condition. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pads disclosed by Lerman to have holding means, as taught by Skibik, to secure the pads together in closed condition.

As to claim 18, Lerman fails to disclose or suggest:

- Said handle is separately attached to said web.

Skibik discloses a handle 28 separately attached to a web 18 so the handle 28 can be removed and used for other purposes, such as for a chinstrap (col.4, ln.36-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cushion disclosed by Lerman with a handle, as taught by Skibik, to allow the handle to be used as a chinstrap.

As to claim 19, Lerman discloses:

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- Each of the pads 8/9 include an arcuate forward perimeter.
- The forward perimeters being joined by said web.

As to claim 20, Lerman discloses:

- Each of the pads 8/9 include an arcuate rearward perimeter.
- The rearward perimeter being joined by said web.

As to claim 21, Lerman discloses:

- Said web 16 comprises a pair of forearms attached to one end of said handle 16/21/22 and a pair of aftarms attached to another end of said handle.

As to claim 23, Lerman fails to disclose or suggest:

- Means for releasably holding the pads in the coplanar relationship.

Skibik discloses a means 26 for releasably holding the pads in the coplanar relationship (col.4, ln.1-9) to secure the cover members together in closed condition. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pads disclosed by Lerman to have holding means, as taught by Skibik, to secure the pads together in closed condition.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lerman USPN3323151 in view of Skibik, USPN5611098, and further in view of Hutchison USPN2156629.

As to claim 22, Lerman fails to disclose or suggest:

- A non-slip surface disposed on a bottom side of each pad.

Hutchison discloses a non-slip surface 21/24 disposed on a bottom side of each pad (pg.2, ln.57-64) to prevent undue movement. It would have been obvious to none of ordinary skill in

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the art at the time the invention was made to modify the bottom side of each pad disclosed by Lerman to be made of a non-slip surface, as taught by Hutchison, to prevent undue movement.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN0679915 to Rudolf discloses a seat.

USPN2765480 to Mueller discloses a pillow.

USPN3747977 to Rowland discloses a seating unit.

USPN4506396 to Ritchie discloses a comfort pillow.

USPN4597605 to Gilbert discloses a seat cushion.

USPN4871209 to Handelman discloses a folding stadium seat.

USPN4925064 to Comora discloses a backpack cushioning device.

USPN5273510 to Puckett discloses an exercise aid.

USPN5291848 to Grinnell discloses a seating cushion.

USPN5421637 to Lemburg discloses a foldable stadium seat.

USPN6347421 to D'Emilio discloses a portable head pillow.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y. Ho whose email address is thomas.ho@uspto.gov and telephone number is (703) 305-4556. The examiner can normally be reached on M-F 9:30AM-6:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

TYH

December 18, 2002



ROBERT J. SANDY
PRIMARY EXAMINER